

25 - page 10, line 22 which describe the construction of the vectors. Support for the amendment made to page 10, line 34 can be found in Fig. 4 which is a schematic diagram of the  $\alpha$ -SGC retroviral vector showing where the CMV enhancer is found in the construct in original Fig. 11B showing intermediate thickness cross hatching at the site where the CMV enhancer is found in the construct, and on page 10, line 25 - page 11, line 3 in the description of the construction of the vectors. Support for the amendment made to page 11, line 1 can be found in Fig. 4 which is a schematic diagram of the  $\alpha$ -SGC retroviral vector showing that the  $\alpha$ -globin promoter is found next to and downstream of the CMV enhancer in original Fig. 11B showing a filled box at the site of the  $\alpha$ -globin promoter, and on page 10, line 25 - page 11, line 3 in the description of the construction of this vector. Support for the amendment to pages 28 and 29 (relating to MOV-9.1) can be found in Fig. 3. Support for the amendment made to page 29 (relating to the initiation codon) can be found at page 9, line 33 - page 10, line 5, and Fig. 3. Support for the amendment to the sequence shown schematically on pages 29-30 can be found in Fig. 9B.

The figures have also been amended to correct inadvertently made errors. The amendment made to Fig. 7 is supported by the specification at page 9, lines 10-11.

The amendments made to Fig. 9B are supported by Fig. 9A and the specification at pages 29-30 and as specified above.

The amendment made to Fig. 10 can be found at page 31, lines 29-34. Figs. 11 A, B, and C have been amended to reposition the designation letters ("A", "B", and "C"), in accordance with the text, and also have been amended for consistency to use the

same wide spaced hatches in each schematic for the identification of the human ADA coding sequence which is present in each of the depicted vectors. Support for these amendments can be found in Fig. 11 as originally filed and in the description of Fig. 11 on pages 9-11 which identifies the ADA gene in each construct. A review of Fig. 11 as originally filed shows that the same marking of heavy stippling were used at each place where ADA is now indicated by wide spaced hatches. Fig. 11B, schematic diagram of "FRIEND-Enh" has been amended to use cross hatching in the portion of the schematic located between the NheI and KpnI sites. The cross hatches have been introduced to insure that this segment of the schematic is readily distinguished from other segments. Support for this amendment is found in originally filed Fig. 11B. A review of originally filed Fig. 11 shows that light stippling was used to distinguish this portion of the figure from other marked portions of the figures. Amended Fig. 11C has also been amended to replace " $\alpha$ G-SGC" with  $\alpha$ -SGC. Support for this amendment can be found on page 51, line 21.

Claims 1, 3, 4, 10, 21, and 44 have been amended to more clearly describe that which Applicants claim as their invention. None of the above amendments introduces new subject matter as support may be found throughout the specification as originally filed.

Claims 1-4, 6-31, 35-37, and 42-44 reciting the limitation "*consensus splice acceptor site*" stand rejected under 35 U.S.C. § 112, first paragraph, insofar as the limitation "*was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventor(s), at the time the application was filed, had possession of the claimed invention*" (see Office Action, page 2, paragraph 2). It should be noted that Examiner's assertions

in the Office Action refer to a new matter rejection; however, because the actual rejection made was a written description rejection, Applicants have responded to it as such.

In order to facilitate prosecution and as discussed in the October 30, 1999 interview, applicants have amended independent claims 1, 10, and 21 to recite that the splice acceptor site is derived from a wild type splice acceptor site necessary for the generation of the *env* mRNA of a wild type retrovirus. Support for this amendment is in the specification at page 9, line 25 through page 10, line 1 and in Fig. 11.

Thus, applicants submit that independent claims 1, 10, and 21 as amended are described in the specification in such a way as to convey to one with ordinary skill in the art that the inventors had the claimed invention in mind at the time they filed the application. As such, these claims are now in condition for allowance. Likewise, claims 2-4, 6-9, 11-20, 22-31, 35-37, and 42-44, which depend therefrom and therefore, which contain all the limitations thereof, are also in condition for allowance.

Applicants wish to note for the record that they respectfully disagree with the Examiner's opinion that the Shinnick et al. reference teaches away from applicants' assertion that the MOV-9 splice acceptor site is a consensus splice acceptor site. In fact, as Applicants pointed out in their last Amendment filed June 10, 1999, Shinnick et al. teaches that the Mo-MuLV splice acceptor site at 560 to 568 contains a possible 3' splice acceptor because it has a 6/7 match with the consensus acceptor sequence. Accordingly, one with skill in the art at the time the present application was filed was

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aware that the MOV-9 sequence (which comes from Mo-MuLV) fits the consensus splice acceptor sequence.

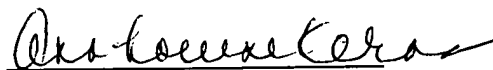
### CONCLUSIONS

Applicants posit that the presently maintained rejections of the pending claims have been fully overcome by amendment. Accordingly, Applicants respectfully submit that the pending claims are in condition for allowance. If the Examiner believes that any further discussion of this communication would be helpful, he is encouraged to contact the undersigned by telephone.

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Applicants request a two (2) months extension of time, up to and including December 19, 1999. Please charge our Deposit Account No. 08-0219 the required fee of \$190.00 (Two-Month Extension of Time) pursuant to 37 C.F.R. §1.17(a)(2). Pursuant to 37 C.F.R. § 1.136(a)(3), the Examiner is authorized to charge any other fee under 37 C.F.R. § 1.17 applicable in the instant communications, or to credit any overpayments to Deposit Account No. 08-219. Such authorization should be treated as a constructive petition for extension of time in the concurrent as well as future replies.

Respectfully submitted,  
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